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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,561	06/19/2001	Tomisada Kubota	U013515-6	1851

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EXAMINER

BEISNER, WILLIAM H

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	<b>Application No.</b> 09/868,561	<b>Applicant(s)</b> KUBOTA, TOMISADA	
	<b>Examiner</b> William H. Beisner	<b>Art Unit</b> 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2003 and 26 January 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2-24 and 26-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-24 and 26 is/are allowed.
- 6) ☒ Claim(s) 27, 30 and 31 is/are rejected.
- 7) ☒ Claim(s) 28 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The Examiner acknowledges applicants' submission of new claims 30 and 31.

Applicants have submitted a copy of the preliminary amendment filed 05 July 2001, however, no evidence (post card receipt, etc.) has been provided to establish that the office received the preliminary amendment.

### ***Claim Objections***

2. Claims 27-31 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claims 27 and 30 depend from claim 7 and claims 28, 29 and 31 depend from claim 13. Claims 27-29 recite "A lid body" forming the container of claim 7 or 13, respectively. Claims 7 and 13 are drawn to a container formed by a body and a lid structure. As a result, since claims 27-29 do not also include a body structure and/or any of the other limitations recited in claims 7 or 13, claims 27-29 do not include all of the limitations of the claims from which they depend. The same holds true for claims 30 and 31. These claims only recite a body structure while the claims from which they depend require a body and lid and additional features.

### ***Claim Rejections - 35 USC § 102***

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 27 is rejected under 35 U.S.C. 102(b) as being anticipated by Awakowicz et al.(US 4,810,066).

The reference of Awakowicz et al. discloses a lid body (1) in the form of a generally flat plate wherein a rear side of the lid includes a rear engagement member (4) and the front side of the lid includes a front engagement member (7). With respect to the claim limitation that at least part of the body is curved, the reference discloses that the lid is curved or bent (i.e. prestressed) (See column 2, lines 45-48).

5. Claims 30 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Hofmann et al.(US 5,752,615).

The reference of Hofmann et al. discloses a container body (23) that includes a front engagement part (27,43) and a rear engagement part (36). Wherein the front engagement part extends in a lift-and-right direction and is capable of displacement in a front-and-rear direction (See column 4, lines 18-29).

6. Claims 30 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson (US 3,766,953).

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The reference of Wilson discloses a container body (10) that includes a front engagement part (12,12a) and a rear engagement part (11,11a). Wherein the front engagement part extends in a lift-and-right direction and is capable of displacement in a front-and-rear direction (See column 2, lines 8-37).

7. Claims 30 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas (US 5,084,251).

The reference of Thomas discloses a container body (14) that includes a front engagement part (80,80a,80b) and a rear engagement part (18). Wherein the front engagement part extends in a lift-and-right direction and is capable of displacement in a front-and-rear direction (See the Figures).

8. Claim 27 is rejected under 35 U.S.C. 102(b) as being anticipated by Lindberg et al.(US 5,950,814).

The reference of Lindberg et al. discloses a container body (8) that includes a front engagement part (5) and a rear engagement part (4). The reference also discloses a lid (3) that includes a rear engagement part (4) and a front engagement part (9). The lid is provided in a curved state when disengaged from the front engagement part (5) of the body and conforms to the shape of the body when engaged with front member (5) (See column 4, lines 43-57).

*Allowable Subject Matter*

9. Claims 2-24, 26, 28 and 29 are allowed.

10. The following is a statement of reasons for the indication of allowable subject matter:

Claims 2-6 would be allowable because the prior art of record fails to teach or fairly suggest a container and lid combination wherein a part of the lid is curved and engagement of the lid causes the lid to be deformed into a plane state or reduced curve state and wherein the body of the container includes a gap for cooperating with the front engagement member of the lid wherein a wedge member is depressed into the gap to release the lid from the container.

Claims 7-12 would be allowable because the prior art of record fails to teach or fairly suggest a container and lid combination wherein the lid includes first and second parallel movable parts wherein the first part includes a front engagement member and the second part includes a disengagement member.

Claims 13-24 would be allowable because the prior art of record fails to teach or fairly suggest a container and lid combination wherein the lid includes a first immovable part with a front engagement member and a second parallel movable part wherein when the front engagement member engages the container the movable part is elastically deformed.

Claim 26 would be allowable because the prior art of record fails to teach or fairly suggest a lid structure that includes first and second parallel movable parts wherein the first part is curved and includes a front engagement member and the second part is substantially flat and includes a disengagement wedge.

Claims 28 and 29 would be allowable because the prior art of record fails to teach or fairly suggest a lid structure that includes first and second parallel parts wherein the first part is

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movable, curved and includes a front engagement part and the second part is immovable and not substantially curved.

### ***Response to Arguments***

11. Applicant's arguments filed 22 Dec. 2003 and 26 Jan. 2004 have been fully considered but they are not persuasive.

With respect to claim 27, Applicants argue that the rejection of the claim is improper because the claim depends from claim 7 which has been indicated as being allowable and, therefore claim 27 should also be allowable in view of its dependence upon claim 7.

In response, while claim 27 has been written to include a reference to claim 7, the claim merely states a lid structure for forming the container of claim 7. The lid structure recited in the body of the claim is anticipated by the references of Awakowicz et al. and Lindberg et al. If applicants maintain that claim 27 should be allowable since it depends from claim 7, do Applicants intend that claim 27 is a combination of the limitations of claim 7 with the further structure of claim 27? If so, the claim should be rewritten to clearly set forth this intended combination.

### ***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Beisner whose telephone number is 571-272-1269. The examiner can normally be reached on Tues. to Fri. and alt. Mon. from 6:15am to 3:45pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William H. Beisner  
Primary Examiner  
Art Unit 1744

WHB